

HAYWARD SUCCESSOR AGENCY OVERSIGHT BOARD

RESOLUTION 2013- 03

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD APPROVING SPECIFIED AMENDMENTS TO THE APPROVED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD JULY THROUGH DECEMBER 2013

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 24, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the “City Council”) declared that the City of Hayward, a charter city (the “City”), would act as successor agency (the “Successor Agency”) for the dissolved Redevelopment Agency of the City of Hayward (the “Dissolved RDA”) effective February 1, 2012; and

WHEREAS, on February 1, 2012, the RDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, the Dissolution Act provides for the appointment of an oversight board (the “Oversight Board”) with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, pursuant to AB 1484 (“AB 1484”), enacted June 27, 2012 to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City; and

WHEREAS, under the Dissolution Act, the Successor Agency must prepare a “Recognized Obligation Payment Schedule” (“ROPS”) that enumerates the enforceable obligations and expenses of the Successor Agency for specified six-month periods; and

WHEREAS on March 1, 2013, the Oversight Board approved the ROPS for the period July 1, 2013 through December 31, 2013 (the “Approved ROPS 13-14A”), all in accordance with the requirements of the Dissolution Act and AB 1484; and

WHEREAS, staff posted the Approved ROPS 13-14A on the Successor Agency's website, and transmitted the Approved ROPS 13-14A to the Auditor-Controller of the County of Alameda (the “Auditor-Controller”), to the Alameda County Administrator (the “County Administrator”) to the California State Controller (the “State Controller”), and to the California Department of Finance (the “DOF”); and

WHEREAS, Health and Safety Code Section 34177.3, added by AB 1484, authorizes the Successor Agency to create enforceable obligations to conduct the work of winding down the affairs of the Former Agency including hiring staff, professional administrative services and legal counsel; and

WHEREAS, Health and Safety Code Section 34177(a), authorizes the Successor Agency to create continue to make payments due for enforceable obligations; and

WHEREAS, the Successor Agency staff proposes to amend the Approved ROPS 13-14A in the manner described below (collectively the “Modifications to the Approved ROPS 13-14A”):

1. Add Line Item 55 requesting payment of \$170,000 under the Consultant Services Agreement for project administrative costs associated with the South Hayward BART Project;
2. Add Line Item 56 requesting payment of \$427,795 under a Legal Services Agreement for project related legal costs associated with the South Hayward BART Project;
3. Add Line Item 57 requesting payment of \$126,482 plus interest under the Tennyson Preservation Partner Agreement; and
4. Add Line Item 58 requesting payment of \$1,108.13 for property maintenance costs associated with the pressure washing of the Cinema Place Garage Property.

WHEREAS, the Modifications to the Approved ROPS 13-14A are reflected in the “Modified ROPS 13-14A” Attachment III of the accompanying staff report; and

WHEREAS, other than the amendments specified in this Resolution, and reflected on the Modified ROPS 13-14A, the remainder of the enforceable obligations and recognized obligations listed on the Approved ROPS 13-14A each constitute the “Unmodified Enforceable Obligations” and each and every of the Unmodified Enforceable Obligations remain in full force and effect and unchanged by the adoption of this Resolution; and

WHEREAS, the Modified ROPS 13-14A must be submitted to the Oversight Board for the Oversight Board's approval in accordance with the Dissolution Act; and

WHEREAS, the Modified ROPS 13-14A was submitted by the Successor Agency to the Alameda County Administrative Officer, the Auditor-Controller, and the DOF in accordance with Health and Safety Section 34179.6; and

WHEREAS, the accompanying staff report provides supporting information upon which the actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board hereby finds, resolves, and determines that the foregoing recitals are true and correct, and, together with

information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

BE IT FURTHER RESOLVED that no further action of the Oversight Board is required in connection with the Unmodified Enforceable Obligations contained on the Approved ROPS 13-14A.

BE IT FURTHER RESOLVED that under Health and Safety Code Section 34180(g), the Oversight Board must approve the establishment of the recognized obligation payment schedules of the Successor Agency.

BE IT FURTHER RESOLVED that the Oversight Board, in accordance with the Dissolution Act, hereby approves the Modified ROPS 13-14A.

BE IT FURTHER RESOLVED that the Oversight Board hereby approves the Modifications to the Approved ROPS 13-14A as reflected in the Modified ROPS 13-14A in the form on file with the City Clerk (the "Approved Modified ROPS 13-14A") including the agreements and obligations described in the Approved Modified ROPS 13-14A, and hereby determines that such agreements and obligations constitute "enforceable obligations" and "recognized obligations" for all purposes of the Dissolution Act. In connection with such approval, the Oversight Board makes the specific findings set forth below. The Oversight Board hereby declares its intent that the Approved Modified ROPS 13-14A shall amend, replace, and supersede the Approved ROPS 13-14A only with respect only to the Modifications to the Approved ROPS 13-14A.

BE IT FURTHER RESOLVED that the Oversight Board has examined the items on the Approved Modified ROPS 13-14A and finds that each of them is necessary for the continued maintenance and preservation of property owned by the Successor Agency until disposition in accordance with the Dissolution Act, the continued administration of the ongoing agreements herein approved by the Oversight Board, or the expeditious wind-down of the affairs of the Dissolved RDA by the Successor Agency.

BE IT FURTHER RESOLVED that the Oversight Board hereby authorizes the Successor Agency to, pursuant to Health and Safety Code Section 34177.3(b), enter into any agreements and amendments to agreements necessary to conduct the work of winding down the Dissolved RDA as contemplated in this Resolution.

BE IT FURTHER RESOLVED that the Oversight Board hereby authorizes and directs the Successor Agency staff to take all administrative actions necessary under the Dissolution Act to file, post, mail or otherwise deliver via electronic mail, internet posting, and/or hardcopy, all notices and transmittals necessary or convenient in connection with the approval of the Approved Modified ROPS 13-14A, and to take any other administrative actions necessary to ensure the validity of the Approved Modified ROPS 13-14A and the validity of any enforceable obligation approved by the Oversight Board in this Resolution.

BE IT FURTHER RESOLVED that nothing in this Resolution shall abrogate, waive, impair or in any other manner affect the right or ability of the City, as a charter city, to initiate and prosecute any litigation with respect to any agreement or other arrangement of the Dissolved RDA, including, without limitation, any litigation contesting the purported invalidity of such agreement or arrangement pursuant to the Dissolution Act.

BE IT FURTHER RESOLVED that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

HAYWARD, CALIFORNIA: April 15, 2013


ADOPTED BY THE FOLLOWING VOTE:

AYES: 6	BOARD MEMBERS:	Sweeney, Chair Valle Bristow Henson Salinas Hodges
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NOES: 1	BOARD MEMBERS:	Armas
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ABSTAIN: 0	BOARD MEMBERS:	
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ABSENT: 0	BOARD MEMBERS:	
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Chair of the Oversight Board to
the Hayward Successor Agency